

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE BARD IVC FILTERS PRODUCTS
LIABILITY LITIGATION

MDL Case No. 2:15-MD-02641-DGC
Case No. 2:18-cv-03589-DGC

**SECOND AMENDED MASTER SHORT
FORM COMPLAINT FOR DAMAGES FOR
INDIVIDUAL CLAIMS AND DEMAND
FOR JURY TRIAL**

SECOND AMENDED SHORT FORM COMPLAINT

Plaintiff(s) named below, for their Complaint against Defendants named below, incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc. 364). Plaintiff(s) further show the Court as follows:

1. Plaintiff/Deceased Party:

William T. Smith

2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of consortium claim:

Nancy Joan Smith

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator):

N/A

4. Plaintiffs/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of implant:

Texas

5. Plaintiffs/Deceased Party's state(s) [if more than one Plaintiff] of residence
at the time of injury:

Texas

6. Plaintiffs current state(s) [if more than one Plaintiff] of residence:

Texas

7. District Court and Division in which venue would be proper absent direct filing:

Southern District of Texas

8. Defendants (check Defendants against whom Complaint is made):

☒ C. R. Bard Inc.

☒ Bard Peripheral Vascular, Inc.

9. Basis of Jurisdiction:

☒ Diversity of Citizenship

☐ Other: _____

a. Other allegations of jurisdiction and venue not expressed in Master Complaint:

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):

☐ Recovery® Vena Cava Filter

☒ G2® Vena Cava Filter

☐ G2® Express Vena Cava Filter

☐ G2® X Vena Cava Filter

☐ Eclipse® Vena Cava Filter

☐ Meridian® Vena Cava Filter

☐ Denali® Vena Cava Filter

☐ Other: _____

11. Date of Implantation as to each product:

April 9, 2010

12. Counts in the Master Complaint brought by Plaintiff(s):

- ☒ Count I: Strict Products Liability - Manufacturing Defect
- ☒ Count II: Strict Products Liability - Information Defect (Failure to Warn)
- ☒ Count III: Strict Products Liability - Design Defect
- ☒ Count IV: Negligence - Design
- ☒ Count V: Negligence - Manufacture
- ☒ Count VI: Negligence - Failure to Recall/Retrofit
- ☒ Count VII: Negligence - Failure to Warn
- ☒ Count VIII: Negligent Misrepresentation
- ☒ Count IX: Negligence *Per Se*
- ☒ Count X: Breach of Express Warranty
- ☒ Count XI: Breach of Implied Warranty
- ☒ Count XII: Fraudulent Misrepresentation
- ☒ Count XIII: Fraudulent Concealment
- ☐ Count XIV: Violations of Applicable Texas Law Prohibiting Consumer Fraud and Unfair and Deceptive Trade Practices
- ☒ Count XV: Loss of Consortium
- ☐ Count XVI: Wrongful Death
- ☐ Count XVII: Survival
- ☒ Punitive Damages
- ☐ Other(s): (please state the facts supporting this Count in the space immediately below)

13. Jury Trial demanded for all issues so triable?

- ☒ Yes
- ☐ No

RESPECTFULLY SUBMITTED this 4th day of December 2018.

Respectfully submitted,

By: /s/Leslie MacLean
Leslie MacLean
TX Bar No. 00794209
lmaclean@waterskraus.com

I hereby certify that on this 4th day of December 2018, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/Leslie MacLean
Leslie MacLean